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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/741,735	12/21/2000	Abdul H. Ally	0942.4060002/LEA/DTJ	5901

26111 7590 11/20/2002

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EXAMINER

LU, JIPING

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 11/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/741,735

Applicant(s)

ALLY ET AL. *GN*

Examiner

Jiping Lu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 09 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34-45 and 49 is/are rejected.
- 7) ☐ Claim(s) 46-48 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9. 6) ☐ Other: _____

DETAILED ACTION

Double Patenting

1. Applicant is advised that should claim 40 be found allowable, claim 41 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 34, 38, 40, 41, 42, 44, 49 are rejected under 35 U.S.C. 102(b) as being anticipated by Barkey (DE 4316163).

Barkey discloses a method for drying a liquid sample comprising the steps of receiving a container containing the sample; directing a gas into the container; pressurizing the gas (by gas blower); heating the sample in the container (by heated block 12); and heating the sample to a temperature based on the sensed sample level.

4. Claims 34, 36, 38, 40, 41, 44, 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Mills et al. (GB 202082).

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Mills et al. disclose a method for drying blood albumen and other liquids comprising the steps of receiving a vessel (f) containing blood albumen and other liquid; directing hot air into the vessel; pressurizing the air (by gas blower); heating the air (by heater a); heating the sample in the vessel (by heated air).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 35-37, 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barkey (DE 4316163) in view of Olesen et al. (U. S. Pat. 6,122,837).

The drying method of Barkey as above includes all that is recited in claims 35-37 and 39 except for the steps of filtering the gas, heating the gas and controlling the gas temperature and pressure. Olesen et al. teach a method of drying comprising the steps of filtering the gas, heating

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the gas and controlling the gas temperature and pressure same as claimed. (see Fig. 4).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the drying method of Barkey to include the steps of filtering the gas, heating the gas and controlling the gas temperature and pressure as taught by Olesen et al. in order to improve the drying efficiency.

8. Claims 35, 37, 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mills et al. (GB 202082) in view of Olesen et al. (U. S. Pat. 6,122,837).

The drying method of Mills et al. as above includes all that is recited in claims 35, 37 and 39 except for the steps of filtering the gas, controlling the gas temperature and pressure. Olesen et al. teach a method of drying comprising the steps of filtering the gas, controlling the gas temperature and pressure same as claimed. (see Fig. 4). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the drying method of Mills et al. to include the steps of filtering the gas, controlling the gas temperature and pressure as taught by Olesen et al. in order to improve the drying efficiency.

9. Claims 43 and 45 rejected under 35 U.S.C. 103(a) as being unpatentable over Barkey (DE 4316163).

The drying method of Barkey as above includes all that is recited in claims 43 and 45 except for the steps of tilting the vessel and directing the gas substantially horizontal to the solution. It would have been an obvious matter of design choice to modify the teaching Barkey to provide the steps of tilting the vessel and directing the gas substantially horizontal to the solution in order to obtain the optimum drying result, since applicant has not disclosed that the tilting the vessel and directing the gas substantially horizontal to the solution solve any stated

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problem in a new or unexpected way or is for any particular purpose which is unobvious to one of ordinary skill and it appears that the claimed feature does not distinguish the invention over similar features in the prior art since, the method of Barkey will perform the invention as claimed by the applicant with any orienting of the vessel and gas.

10. Claims 42 and 43 rejected under 35 U.S.C. 103(a) as being unpatentable over Mills et al. (GB 202082).

The drying method of Mills et al. as above includes all that is recited in claims 42 and 43 except for the steps of tilting the vessel and performing the drying on the plurality of vessels. It would have been an obvious matter of design choice to modify the teaching Mills et al. to provide the steps of tilting the vessel and performing the drying on a plurality of vessels in order to obtain the optimum drying result, since applicant has not disclosed that the tilting the vessel and performing the drying on a plurality of vessels solve any stated problem in a new or unexpected way or is for any particular purpose which is unobvious to one of ordinary skill and it appears that the claimed feature does not distinguish the invention over similar features in the prior art since, the method of Mills et al. will perform the invention as claimed by the applicant with any orienting of the vessel or number of vessels.

Allowable Subject Matter

11. Claims 46, 47-48 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


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Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jiping Lu whose telephone number is 703-308-2354. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 703 308-1935. The fax phone numbers for the organization where this application or proceeding is assigned are 703 308-7764 for regular communications and 703 308-7764 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1113.


Jiping Lu
Primary Examiner
Art Unit 3749

J. L.
November 16, 2002